

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 274 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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KANABHAI RAMABHAI VAJA

Versus

STATE OF GUJARAT  
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Appearance:

MS SUBHADRA G PATEL for Petitioner  
Mr.H.L.Jani, learned A.G.P. for respondents  
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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 03/03/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 10.8.99 passed by the District Magistrate, Junagadh detaining the petitioner under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner was lodged in the District Prison at Palanpur but during the pendency of

the trial he has been transferred to Central Jail, Sabarmati at Ahmedabad and he is in jail since the date of the order of detention i.e.10.8.99. The grounds of detention enclosed with the detention order show that 6 cases were registered against the petitioner under the Prohibition Act in which 2 to 80 Lts. of unauthorised liquor was recovered from him. The detaining authority has mentioned that the petitioner is a bootlegger and is engaged in the business of unauthorised liquor and related anti social activities. It has also been mentioned that the petitioner has been bailed out in the aforesaid criminal cases and it has not been possible to deter the petitioner from continuing his anti social activities unless he was detained.

Learned counsel for the petitioner has argued that even if all the allegations, as levelled against the petitioner in the grounds of detention, are taken to be true on their face value, they do not constitute a case of breach of public order. Mr.H.L.Jani appearing on behalf of respondents has failed to show as to how it forms a case of breach of public order.

In view of the several decisions of the Supreme Court on this aspect, it is settled that as per the grounds disclosed for detention, no case of breach of public order can be said to have been made out. It is at the most a case of breach of law and order. The detention order, therefore, cannot be sustained in the eye of law.

Accordingly the impugned detention order dated 10.8.99 passed by the District Magistrate, Junagadh cannot be sustained in the eye of law. The same is hereby quashed and set aside. It is directed that the petitioner shall be released forthwith if not required to be detained under any other detention order or in any other criminal case. This Special Civil Application is allowed. Rule is made absolute.

Since it is given out that the petitioner is lodged at Central Jail, Sabarmati, Ahmedabad, writ be sent to Central Jail, Sabarmati, Ahmedabad for his release.